

**Zoning Public Hearing  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-15  
AGENDA DATE: Thu 12/01/2005  
PAGE: 1 of 1**

**SUBJECT:** C14-05-0108 - 5717 Balcones Drive - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5717 Balcones Drive (Shoal Creek Watershed) from family residence (SF-3) district zoning to community commercial-conditional overlay (GR-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant community commercial (GR-CO) combining district zoning. Applicant: SWD Partners, Ltd. (Mark Banta). Agent: Armbrust & Brown, L.L.P. (Richard T. Suttle, Jr.). City Staff: Jorge E. Rousselin, 974-2975.

**REQUESTING** Neighborhood Planning  
**DEPARTMENT:** and Zoning

**DIRECTOR'S**  
**AUTHORIZATION:** Greg Guernsey

**ZONING REVIEW SHEET****CASE:** C14-05-0108**Z.A.P. DATE:** September 6, 2005  
September 20, 2005  
October 4, 2005  
November 1, 2005**ADDRESS:** 5717 Balcones Drive**OWNER:** SWD Partners, LTD  
(Mark Banta)**AGENT:** Armburst & Brown, L.L.P.  
(Richard T. Suttle, Jr.)**REZONING FROM:** SF-3 (Family residence district)**TO:** GR (Community commercial) **AREA:** 1.833 Acres (79,845.48 square feet)**SUMMARY ZAP RECOMMENDATION:**

November 1, 2005:

APPROVED STAFF'S RECOMMENDATION FOR GR-CO DISTRICT ZONING WITH THE CONDITIONS OF:

- ONLY TWO ALLOWED GR USES (MEDICAL OFFICE, EXCEEDING 5,000 SQUARE FEET & HOSPITAL LIMITED);
- THE REMAINING USES WOULD BE LR DISTRICT ZONING, EXCEPT THOSE THAT HAVE BEEN PRECLUDED BY STAFF: WITH ADDITION THAT SERVICE STATION IS ALSO A PROHIBITED USE;
- 2000 VEHICLE TRIP LIMIT PER DAY;
- MAXIMUM OF 30-FEET HEIGHT LIMIT;
- LIMITED IMPERVIOUS COVER TO NO MORE THAN 70%;
- F.A.R OF .29 TO 1.

[K.J: J.M 2<sup>ND</sup>] (7-2) J.P; C.H – NAY

The following uses shall be prohibited:

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>▪ Parking facility (prohibiting "parking structures" only);</li> <li>▪ Commercial off-street parking;</li> <li>▪ Communications services;</li> <li>▪ Funeral services;</li> <li>▪ Hotel-motel;</li> <li>▪ Indoor entertainment;</li> <li>▪ Indoor sports and recreation;</li> <li>▪ Off-site accessory parking;</li> <li>▪ Outdoor entertainment;</li> <li>▪ Pawn shop services;</li> <li>▪ Research assembly services;</li> <li>▪ Research services;</li> <li>▪ Research testing services;</li> </ul> | <ul style="list-style-type: none"> <li>▪ Research warehousing services;</li> <li>▪ Hospital services (general);</li> <li>▪ Residential treatment;</li> <li>▪ Bed and breakfast (Group 1 &amp; 2);</li> <li>▪ Exterminating services;</li> <li>▪ Automotive rentals;</li> <li>▪ Automotive repair services</li> <li>▪ Automotive sales</li> <li>▪ Automotive washing (of any type);</li> <li>▪ Congregate living;</li> <li>▪ Business or trade school</li> <li>▪ Business support services</li> <li>▪ General retail sales (general)</li> <li>▪ Hotel-motel</li> </ul> |
|---|---|

- Outdoor sports and recreation
- Personal improvement services
- Service station
- Theater
- Group home (Class II)
- Hospital services (general)
- Residential treatment

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends community commercial – conditional overlay district (GR-CO) combining district zoning. The conditional overlay shall prohibit the following uses:

- Parking facility (prohibiting “parking structures” only);
- Commercial off-street parking;
- Communications services;
- Funeral services;
- Hotel-motel;
- Indoor entertainment;
- Indoor sports and recreation;
- Off-site accessory parking;
- Outdoor entertainment;
- Pawn shop services;
- Research assembly services;
- Research services;
- Research testing services;
- Research warehousing services;
- Hospital services (general);
- Residential treatment;
- Bed and breakfast (Group 1 & 2);
- Exterminating services;
- Automotive rentals;
- Automotive washing (of any type);
- Congregate living;

Furthermore, the recommended conditional overlay shall restrict structures to a maximum height not exceeding 30 feet with a maximum impervious cover of 70% and floor area ratio (FAR) of .29 to 1. A maximum vehicle trip generation of 2,000 per day is also recommended.

### **ISSUES:**

As part of the discussion at the October 4, 2005 ZAP meeting, the Commission inquired about the possibility of GO zoning for the site. While GO zoning allows medical offices in excess of 5,000 square feet, the Staff feels that there are uses under GO that are recommended uses could also be prohibited under GO zoning:

- Communications services;
- Off-site accessory parking;
- Hospital services (general);
- Residential treatment;
- Bed and breakfast (Group 1 & 2); and
- Congregate living

### **DEPARTMENT COMMENTS:**

The subject rezoning area is a 1.83 acre site fronting Balcones Drive and Mo-Pac Expressway zoned SF-3. The applicant proposes to rezone the property to community commercial (GR) district to allow for a medical office to include retail sales in an 18,000 square foot existing building. Retail sales are estimated at 12% of the building area. Staff recommends community commercial – conditional overlay district (GR-CO) combining

district zoning including the above prohibited uses, impervious cover, height restrictions, and FAR ratio based on the following considerations:

- 1.) The proposed use is compatible with the existing surrounding office uses along the east and west side of Balcones Drive;
- 2.) Access will be taken to one collector roadway on Balcones Drive;
- 3.) Limitation of potential adverse land uses that may have a detrimental effect on the character of the neighborhood is recommended;
- 4.) Limitation of height, impervious cover and FAR is recommended to maintain consistent compatible development; and
- 5.) Maximum vehicle trip generation of 2,000 vehicles per day is recommended.

**EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
<i>Site</i>	SF-3	Texas Cosmetology Licensing Commission
<i>North</i>	GR-CO	McDonald's Restaurant
<i>South</i>	LR-CO / LR	Gas Station / Convenience Store
<i>East</i>	N/A	Mo-Pac Expressway
<i>West</i>	LO	Offices

**AREA STUDY:** N/A

**TIA:** Waived; Applicant agrees to a limit of 2,000 vehicle trips per day

**WATERSHED:** Shoal Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

- 53--Northwest Austin Civic Association
- 511--Austin Neighborhoods Council
- 742--Austin Independent School District

**SCHOOLS:**

- Austin Independent School District
  - Highland Park Elementary School
  - Lamar Middle School
  - McCallum High School

**RELATED CASES:**

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-91-0075	SF-3 to LR	10/08/91: PC Approved Staff recommendation of LR subject to conditions.  Conditions: Existing	11/07/91: Approved LR-CO.  CO: One driveway approach shall be permitted from the property onto Balcones Drive sufficient to provide

		driveway onto Balcones Drive be closed and located to new site where rezoning is occurring.	vehicular access from the property to Balcones Drive. The driveway approach shall conform with all applicable provisions of the Land Development Code and Transportation Criteria Manual relating to driveway approaches.
C14-89-0065	LO to GR	12/19/89: PC Approved GR-CO. Subject to agreement between applicant & Northwest Austin Civic Association indicating that applicant will pay notification fees for amendments to the TIA. (7-0-1)	<p>01/17/91: (5-0) Approved GR-CO subject to conditions:</p> <p>Prohibited uses:</p> <ul style="list-style-type: none"> <li>- Parking facility (prohibiting "parking structures" only);</li> <li>- Commercial off-street parking;</li> <li>- Communication services (prohibiting "broadcasting stations" only);</li> <li>- Funeral services, hotel-motel (not including suite hotels);</li> <li>- Indoor entertainment, Indoor sports and recreation;</li> <li>- Off-site accessory parking;</li> <li>- Outdoor entertainment;</li> <li>- Pawn shop services;</li> <li>- Research assembly services;</li> <li>- Research services;</li> <li>- Research testing services;</li> <li>- Research warehousing services;</li> <li>- Hospital services (general);</li> <li>- Residential treatment;</li> <li>- Bed and breakfast;</li> <li>- Exterminating services;</li> <li>- Automotive rentals;</li> <li>- Automotive washing (of any kind);</li> <li>- Congregate living; and</li> <li>- Restaurant (limited)</li> </ul> <p>Height limitation of 2 stories with a maximum height of 30 feet.</p> <p>No reflective material on the structure.</p> <p>FAR limited to .29 and maximum impervious cover at 70%.</p>

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-04-0089	GR-CO to CS-CO	07/20/04: ZAP Approved staff recommendation of CS-CO. (8-0)	08/26/04: Approved CS-CO on all 3 readings (7-0).
C14-04-0065	GO-CO to GO-CO	<p>06/01/04: ZAP Approved staff recommendation of (GR-CO) (8-0)</p> <p>Conditional Overlay:</p> <ul style="list-style-type: none"> <li>- Maximum height of 60 feet;</li> <li>- Maximum impervious cover of 80%;</li> <li>- Maximum FAR of 0.5 to 1.0;</li> <li>- 2,000 trip limitation;</li> </ul> <p>Prohibited uses:</p> <ul style="list-style-type: none"> <li>- Administrative and business offices;</li> <li>- Art and craft studio (limited);</li> <li>- Business or trade school;</li> <li>- Communication services;</li> <li>- Medical offices (exceeding 5,000 sq. ft. gross floor area);</li> <li>- Local utility services;</li> <li>- Personal services;</li> <li>- Software development;</li> <li>- Safety services;</li> <li>- Communication service facilities;</li> <li>- Convalescent services;</li> <li>- Cultural services;</li> <li>- Hospital services (limited);</li> <li>- Medical offices (not exceeding 5,000 sq. ft. gross floor area);</li> <li>- Private secondary educational facilities;</li> <li>- Professional office; and</li> </ul>	<p>07/29/04: Approved recommendation of (GR-CO) (7-0)</p> <p>Conditional Overlay:</p> <ul style="list-style-type: none"> <li>- Maximum height of 60 feet;</li> <li>- Maximum impervious cover of 80%;</li> <li>- Maximum FAR of 0.5 to 1.0;</li> <li>- 2,000 trip limitation;</li> </ul> <p>Prohibited uses:</p> <ul style="list-style-type: none"> <li>- Administrative and business offices;</li> <li>- Art and craft studio (limited);</li> <li>- Business or trade school;</li> <li>- Communication services;</li> <li>- Medical offices (exceeding 5,000 sq. ft. gross floor area);</li> <li>- Local utility services;</li> <li>- Personal services;</li> <li>- Software development;</li> <li>- Safety services;</li> <li>- Communication service facilities;</li> <li>- Convalescent services;</li> <li>- Cultural services;</li> <li>- Hospital services (limited);</li> <li>- Medical offices (not exceeding 5,000 sq. ft. gross floor area);</li> <li>- Private secondary educational facilities;</li> <li>- Professional office; and</li> <li>- College and university facilities.</li> </ul>

		<ul style="list-style-type: none"> <li>- College and university facilities.</li> </ul>	
C14-95-0140	SF-2 to GO-CO	<p>02/06/96: ZAP Approved staff recommendation of (GO-CO) (7-1)</p> <p>Conditional Overlay:</p> <ul style="list-style-type: none"> <li>- Maximum height of 46 feet;</li> <li>- Maximum impervious cover of 80%;</li> <li>- Maximum FAR of 0.25 to 1.0;</li> <li>- 2,000 trip limitation;</li> </ul> <p>Prohibited uses:</p> <ul style="list-style-type: none"> <li>- Administrative and business offices;</li> <li>- Art and craft studio (limited);</li> <li>- Business or trade school;</li> <li>- Communication services;</li> <li>- Medical offices (exceeding 5,000 sq. ft. gross floor area);</li> <li>- Local utility services;</li> <li>- Personal services;</li> <li>- Software development;</li> <li>- Safety services;</li> <li>- Communication service facilities;</li> <li>- Convalescent services;</li> <li>- Cultural services;</li> <li>- Hospital services (limited);</li> <li>- Medical offices (not exceeding 5,000 sq. ft. gross floor area);</li> <li>- Private secondary educational facilities;</li> <li>- Professional office; and</li> <li>- College and university facilities.</li> </ul>	<p>03/07/96: Approved recommendation of (GO-CO) (7-0)</p> <p>Conditional Overlay:</p> <ul style="list-style-type: none"> <li>- Maximum height of 46 feet;</li> <li>- Maximum impervious cover of 80%;</li> <li>- Maximum FAR of 0.25 to 1.0;</li> <li>- 2,000 trip limitation;</li> </ul> <p>Prohibited uses:</p> <ul style="list-style-type: none"> <li>- Administrative and business offices;</li> <li>- Art and craft studio (limited);</li> <li>- Business or trade school;</li> <li>- Communication services;</li> <li>- Medical offices (exceeding 5,000 sq. ft. gross floor area);</li> <li>- Local utility services;</li> <li>- Personal services;</li> <li>- Software development;</li> <li>- Safety services;</li> <li>- Communication service facilities;</li> <li>- Convalescent services;</li> <li>- Cultural services;</li> <li>- Hospital services (limited);</li> <li>- Medical offices (not exceeding 5,000 sq. ft. gross floor area);</li> <li>- Private secondary educational facilities;</li> <li>- Professional office; and</li> <li>- College and university facilities.</li> </ul>
C14-96-0145	LR to GR-CO	<p>02/04/97: PC Approved Staff recommendation of GR-CO. (5-0)</p>	<p>03/06/97: Approved recommendation of GR-CO. (7-0)</p>

		<b>Prohibited uses:</b> - Automotive sales; - Automotive repair services; and - Automotive rentals	<b>Prohibited uses:</b> - Automotive sales; - Automotive repair services; and - Automotive rentals
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**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
MoPac SB Frontage Road	350'	Varies	Arterial	No	Route #71	No
Balcones Drive	84'	50'	Collector	No	Route #19	No

**LIST OF ATTACHEMENTS:**

Attachment A: Existing restrictive covenant for property to the north  
 Attachment B: Ordinance No. 910117-A establishing GR-CO zoning to the north

**CITY COUNCIL DATE:** December 1, 2005

**ACTION:**

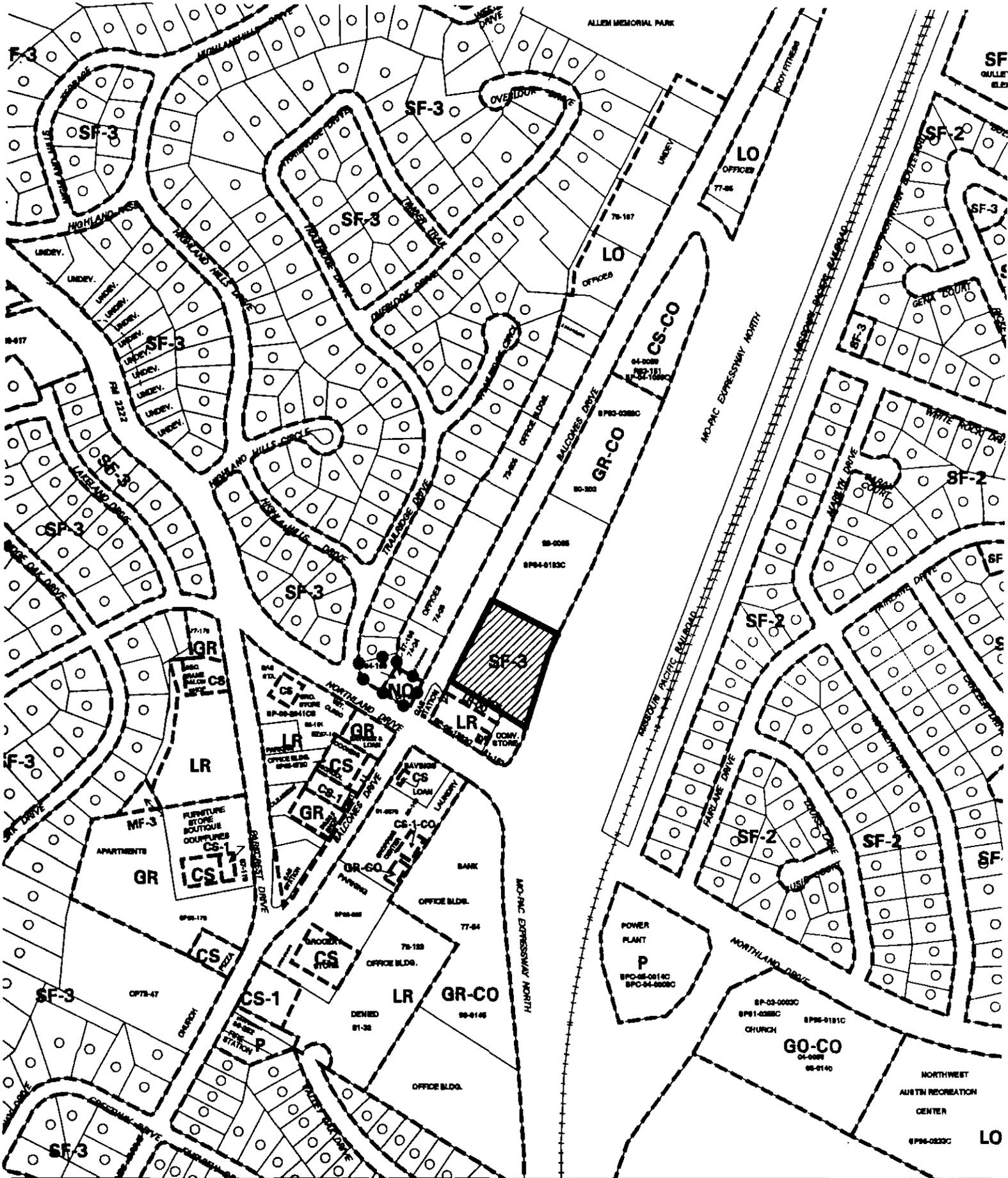
**ORDINANCE READINGS:** 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Jorge E. Rousselin, NPZD

**PHONE:** 974-2975

**E-MAIL:** [jorge.rousselin@ci.austin.tx.us](mailto:jorge.rousselin@ci.austin.tx.us)



<p>1" = 400'</p>	<p>SUBJECT TRACT </p> <p>PENDING CASE </p> <p>ZONING BOUNDARY </p> <p>CASE MGR: T.BOLT</p>	<p><b>ZONING</b></p> <p><b>CASE #: C14-05-0108</b></p> <p><b>ADDRESS: 5717 BALCONES DR</b></p> <p><b>SUBJECT AREA (acres): 1.833</b></p>	<p><b>DATE: 05-09</b></p> <p><b>INTLS: SM</b></p>	<p><b>CITY GRID REFERENCE NUMBER</b></p> <p><b>H28</b></p>
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## STAFF RECOMMENDATION

Staff recommends community commercial – conditional overlay district (GR-CO) combining district zoning. The recommended conditional overlay shall prohibit the following uses:

- Parking facility (prohibiting “parking structures” only);
- Commercial off-street parking;
- Communication services;
- Funeral services;
- Hotel-motel;
- Indoor entertainment;
- Indoor sports and recreation;
- Off-site accessory parking;
- Outdoor entertainment;
- Pawn shop services;
- Research assembly services;
- Research services;
- Research testing services;
- Research warehousing services;
- Hospital services (general);
- Residential treatment;
- Bed and breakfast (Group 1 & 2);
- Exterminating services;
- Automotive rentals;
- Automotive washing (of any type); and
- Congregate living;

Furthermore, the recommended conditional overlay shall restrict structures to a maximum height not exceeding 30 feet with a maximum impervious cover of 70% and floor area ratio (FAR) of .29 to 1. A maximum vehicle trip generation of 2,000 per day is also recommended.

## BASIS FOR RECOMMENDATION

***1. The proposed zoning should be consistent with the purpose statement of the district sought.***

*Community commercial (GR) district is the designation for an office or other commercial use that serves neighborhood and community needs and that generally is accessible from major traffic ways.*

The proposed rezoning meets the purpose statement set forth in the Land Development Code. The subject property is the current location of the Texas Cosmetology Licensing Commission and is next to commercial and across from office with GR and LO uses.

***2. The proposed zoning should promote consistency, and orderly planning.***

The proposed change and recommended conditional overlay is compatible with the surrounding area. Furthermore,

- 1.) The proposed use is compatible with the existing surrounding office uses along the east and west side of Balcones Drive;
- 2.) Access will be taken to one collector roadway on Balcones Drive;
- 3.) Limitation of potential adverse land uses that may have a detrimental effect on the character of the neighborhood is recommended;
- 4.) Limitation of height, impervious cover and FAR is recommended to maintain consistent compatible development; and
- 5.) Maximum vehicle trip generation of 2,000 vehicles per day is recommended.

**EXISTING CONDITIONS**

**Site Characteristics**

The subject rezoning area is an existing 18,000 square feet office building housing the Texas Cosmetology Licensing Commission. The property has been acquired by SWD Partners, LTD with the intention of placing a medical office building at the site. Access is via Balcones Avenue.

**Impervious Cover**

No changes to the allocated impervious cover are contemplated with the rezoning application.

**Transportation**

1. No additional right-of-way is needed at this time.
2. The trip generation under the requested zoning is estimated to be 6,207 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics). The proposed use of 18,000 s.f. medical office would generate approximately 521 vehicle trips per day.
3. A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

**Environmental**

1. The site is located over the North Edwards Aquifer Recharge Zone. The site is located in the Shoal Creek Watershed of the Colorado River Basin, which is classified

as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
4. According to flood plain maps, there is no flood plain within the project area.
5. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

### **Water and Wastewater**

WW 1. The landowner intends to serve the site with City of Austin water and wastewater utilities. If water or wastewater utility improvements, or offsite main extension, or system upgrades, or utility relocation, or utility adjustment are required, the landowner, at own expense, will be responsible for providing. Also, the water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria. The utility construction must be inspected by the City. The landowner must pay the associated City fees.

### **Site Plan and Compatibility Standards**

#### SP 1.

This tract is already developed. A change of use within the existing structure would not trigger compatibility development regulations. However, any new construction on this site would be subject to compatibility development regulations due to the existing SF-2 zoned property to the east, SF-3 to the west and would be subject to the following requirements:

- Along the east and west property line, the following standards apply:
- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- Additional design regulations will be enforced at the time a site plan is submitted.

DOC. NO.  
91010579

FILM CODE *TOLM*  
00004674763  
Zoning Case No. C14-89-0065

**RESTRICTIVE COVENANT**

OWNER: RESOLUTION TRUST CORPORATION, as Receiver for Bright Banc Savings, and  
not in its corporate capacity 10:19 AM 6943 7.00 INI  
3 2 02/07/91  
ADDRESS: 2355 Stemmons Freeway, 10th Floor, Dallas, Texas, 75207, 910105.79-DOC  
Attention: Mike Gavin.  
CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration  
paid by the City of Austin to the Owner, the receipt and sufficiency of which is  
acknowledged.  
PROPERTY: Lot A, Balcones-Northland Addition, a subdivision in the City of Austin, Travis  
County, Texas according to the map or plat of record in Book 85, Page 123A, of  
the Plat Records of Travis County, Texas.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions as conditions of zoning for the Property;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Owner shall construct and thereafter maintain screening sufficient to conceal garbage dumpsters located on the Property from view of a person standing outside the Property.
2. The following types of signs shall be prohibited on the Property: (i) neon (or flashing) signs, and (ii) building floodlighting signs. A sign installation permit application for which construction of a sign along Balcones Drive is sought shall comply with all the ordinances and regulations applicable to signs on the date the application for a sign installation permit is filed.
3. Prior to release of a site plan for the Property or any portion of the Property, the Owner must receive final approval from State Department of Highways and Public Transportation of the construction plans for the proposed roadway connecting Balcones Drive with the southbound exit ramp of Loop 1 north of R. M. 2222. If the State Department of Highways and Public Transportation does not approve the construction plans for the proposed roadway, then the Owner agrees to the City of Austin rezoning the Property to "LO" Limited Office district.
4. Prior to release of a site plan for the Property or any portion of the Property, the Owner shall dedicate all right-of-way required for, and pay for all expenses associated with the design and construction of, the proposed roadway.
5. The notice owner of any property located within 300 feet of the subject Property shall be notified by mail if one of the following occurs:
  - (i) an application for site plan approval for the Property or any portion of the Property is filed by the Owner;
  - (ii) an application for modification, amendment or termination to this restrictive covenant is filed by the Owner;
  - (iii) ~~(iii)~~ the Director of the Department of Planning and Development determines that a Traffic Impact Analysis update study is necessary for the subject Property.

REAL PROPERTY RECORDS 1  
TRAVIS COUNTY, TEXAS

11369 0104

All notification expenses required pursuant by this paragraph # 7 shall be paid for by the Owner.

- 6. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
- 7. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
- 8. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
- 9. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property at the time of such modification, amendment or termination.

All citations to the Austin City Code shall refer to the Austin City Code of 1981, as amended from time to time, unless otherwise specified. When the context requires, singular nouns and pronouns include the plural.

RESOLUTION TRUST CORPORATION, as Receiver for Bright Banc Savings, and not in its corporate capacity

BY: [Signature]  
Victor T. Arocha, Financial Institution Specialist for Resolution Trust Corporation, acting in his capacity as Attorney-in-Fact

Date: 1/10, 1994

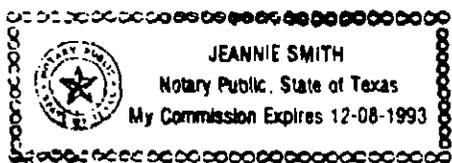
THE STATE OF TEXAS  
COUNTY OF TRAVIS

§  
§

This instrument was acknowledged before me on this the 10th day of January, 1994, by Victor T. Arocha, Financial Institution Specialist, in his capacity as Attorney-in-Fact for Resolution Trust Corporation, as Receiver for Bright Banc Savings.

[Signature]  
Notary Public Signature

[Signature]  
Type or Print of Notary  
My Commission Expires: 12-8-93



NOTARY SEAL

Ret.  
CITY OF AUSTIN  
DEPT. OF LAW  
P. O. BOX 1088  
AUSTIN, TEXAS 78767-8828

Attn: Joe Jimenez

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

11369 0105

**FILED**

1991 FEB -7 AM 10:12

DANA DE BEAUVOIR  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

**RECORDER'S MEMORANDUM**

At the time of recordation this instrument was found to be inadequate for the best photographic reproduction, because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.

STATE OF TEXAS                      COUNTY OF TRAVIS

I hereby certify that this instrument was FILED on the date and at the time stamped herein by me, and was duly RECORDED, in the Volume and Page of the named RECORDS of Travis County, Texas, on

FEB 7 1991



*Dana De Beauvoir*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

11369 0106

ORDINANCE NO. 910117- A

AN ORDINANCE ORDERING A REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1981 AS FOLLOWS: LOT A, BALCONES-NORTHLAND ADDITION, FROM "LO" LIMITED OFFICE DISTRICT TO "GR-CO" COMMUNITY COMMERCIAL DISTRICT-CONDITIONAL OVERLAY COMBINING DISTRICT, LOCALLY KNOWN AS 5736-5908 NORTH MOPAC EXPRESSWAY, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; WAIVING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Chapter 13-2 of the Austin City Code of 1981 is amended to change the base zoning district from "LO" Limited Office district to "GR-CO" Community Commercial district-Conditional Overlay combining district on the property described in File C14-89-0065, as follows:

Lot A, Balcones-Northland Addition, a subdivision in the City of Austin, Travis County, Texas according to the map or plat of record in Book 85, Page 123A, of the Plat Records of Travis County, Texas,

locally known as 5736-5908 North MoPac Expressway, in the City of Austin, Travis County, Texas.

PART 2. The property within the boundaries of the Conditional Overlay combining district established by this ordinance is subject to the following restrictions:

1. The following uses of the Property shall be prohibited:
  - (a) Parking facility [prohibiting "Parking structures" only]
  - (b) Commercial off-street parking,
  - (c) Communication services [prohibiting "Broadcasting stations" only]
  - (d) Funeral services,
  - (e) Hotel-motel [not including suite hotels],
  - (f) Indoor entertainment,
  - (g) Indoor sports and recreation,
  - (h) Off-site accessory parking,
  - (i) Outdoor entertainment,
  - (j) Pawn shop services,
  - (k) Research assembly services,
  - (l) Research services,
  - (m) Research testing services,
  - (n) Research warehousing services,
  - (o) Hospital services (general),
  - (p) Residential treatment,
  - (q) Lodginghouse residential,
  - (r) Exterminating services,
  - (s) Automotive rentals,
  - (t) Automotive washing (automotive or mechanical)
  - (u) Automotive washing (self service)
  - (v) Congregate living [prohibiting "Emergency shelters" only], and,
  - (w) Restaurant (drive-in, fast food) [limited to one].
2. Structures of any kind constructed on the Property shall be restricted to maximum of two stories not to exceed a total of 30 feet in height.
3. Development of the Property shall be restricted to a maximum (i) impervious coverage of 70%, and, (ii) floor to area ratio of .29 to 1.

CITY OF AUSTIN, TEXAS

Except as specifically restricted pursuant to this ordinance, the property may be developed and used in accordance with the regulations established for the "GR" Community Commercial base district and other applicable requirements of the Land Development Code.

PART 3. It is ordered that the Zoning Map established by Sec. 13-2-22 of the Austin City Code of 1981 and made a part thereof shall be changed to record the amendment enacted by this ordinance.

PART 4. The requirement imposed by Section 2-2-3 of the Austin City Code of 1981 that this ordinance be read on three separate days shall be waived by the affirmative vote of five members of the City Council to pass this ordinance through more than one reading on a single vote.

PART 5. This ordinance shall be effective ten days after the date of its final passage.

PASSED AND APPROVED:

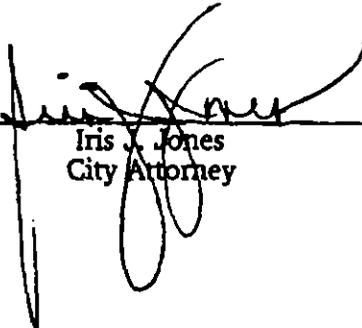
January 17, 1991

501 001 001 001



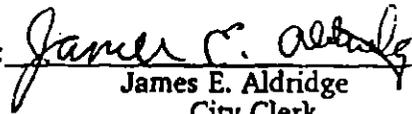
Lee Cooke  
Mayor

APPROVED:



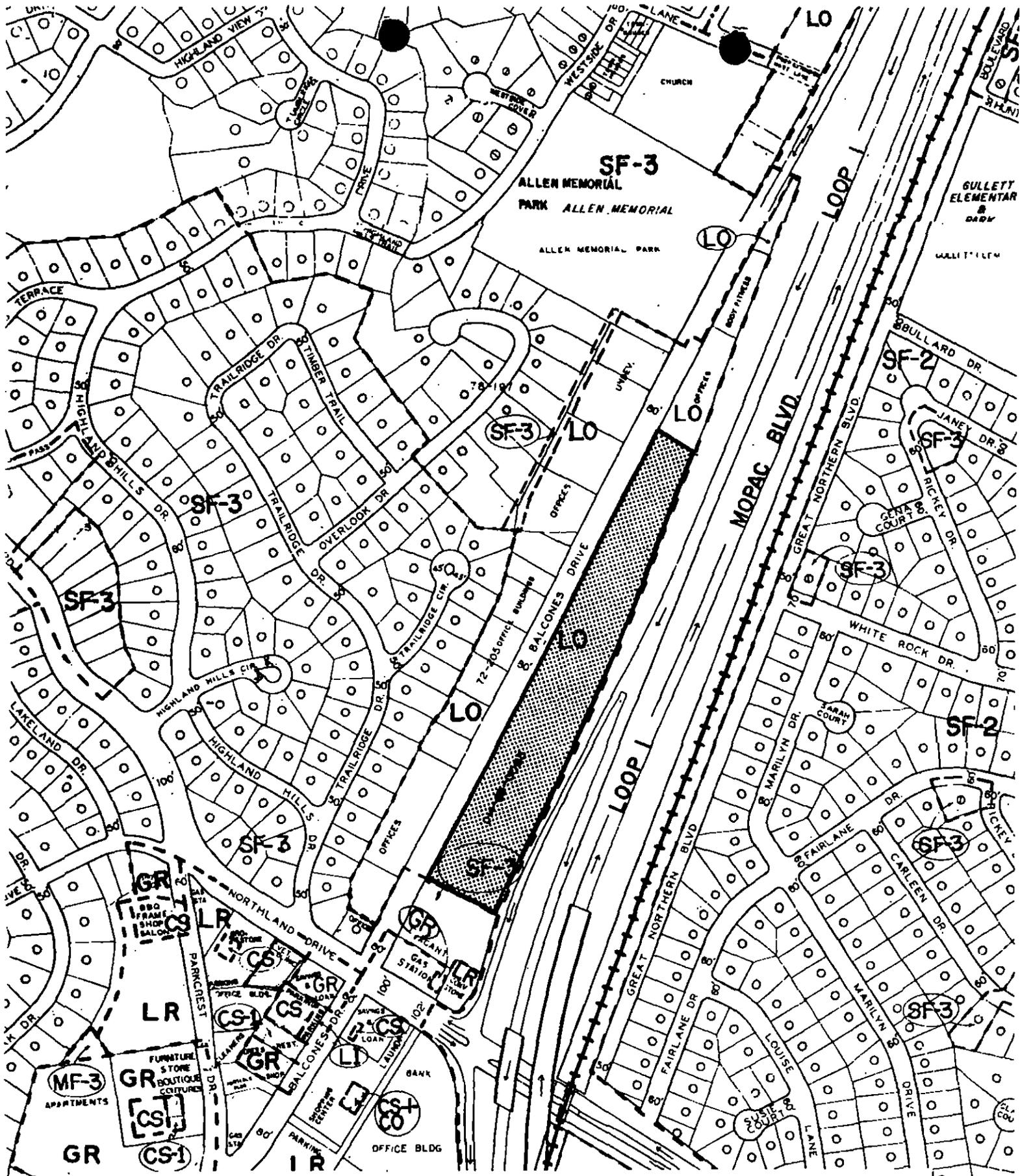
Iris J. Jones  
City Attorney

ATTEST:



James E. Aldridge  
City Clerk

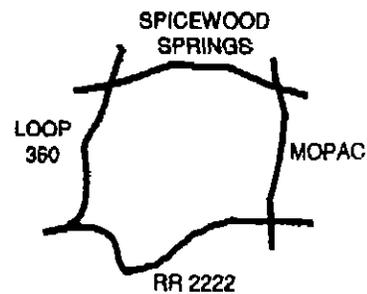
17JAN91  
ME/jj



 NORTH	PENDING CASE .....	SUBJECT TRACT .....	GRID
	ZONING LINE - - - - -	SUBJECT ACREAGE 6.840	H-28
	CYCLE 12/89 INTLS 41	CASE NO: C14-89-0065	H-29



P.O. BOX 26654 • AUSTIN, TEXAS 78755



Zoning and Platting Commission,

Re: 5717 Balcones Drive from SF-3/GR-CO to GR - C14050108

We request a postponement of this case for one month. We had requested information about this case from the agent and had not received it by the time we received the City notice regarding the hearing. We were surprised to receive the notice since we had yet to hear back from the agent with answers to our questions. We are still due additional information about this case from the agent. Given this communication lapse, we have not had time evaluate the options and need additional time to come to a consensus.

Thank you for your attention to this matter. I may be reached at 728.9045.

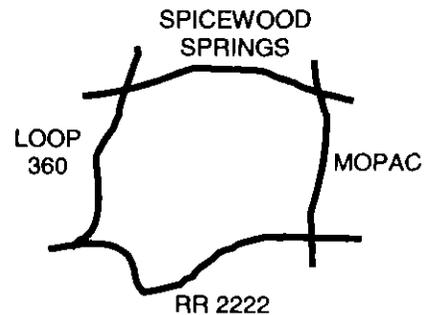
Regards,  
Bill Bradley

President  
North West Austin Civic Association (NWACA)

cc. Richard Suttle



P.O. BOX 26654 • AUSTIN, TEXAS 78755



Dear Mr. Rousselin,

Re: 5717 Balcones Drive from SF-3/GR-CO to GR

In talking to both the applicant and the Case Manager, the North West Austin Civic Association feels the requested zoning of GR is more intense a use than needed to accomplish the petitioner's goal to have medical offices and sell eye glasses to their patients. We believe LO zoning will meet both the neighborhood and applicant's needs.

Currently, the site is zoned SF-3/GR-CO. While a small portion of the site is zoned GR-CO, the overlay required the property be developed with LR uses and LO site development restrictions (2 story height and 70% impervious cover). This zoning was carefully negotiated and agreed to by the Civic Association as well as Allandale Neighborhood Association. The Association agreed to the GR to allow construction of ONE fast food restaurant in exchange for a bypass from Balcones Drive to reduce the amount of traffic onto Balcones Drive.

The Cosmetology Building is not your typical office use. The building houses employees as well as conducts tests throughout the day. Based on figures of daily users provided by Dyna Lang, of the Texas Cosmetology Commission, trips can be estimated at approximately 280 trips per day. Even if the trips are doubled, for arguments sake, it is still less than the trips proposed by the new use at this congested intersection.

To compound the problem, traffic will be adversely affected by even more cars resulting from two brand new developments a block and two blocks north on Balcones that will be fully developed in approximately 6 months. This development is comprised of 60,000 sq ft of medical office and 68,000 sq ft of multi-story mini storage that must all enter and exit along Balcones drive. In addition to these developments in progress, property within 200 feet of the subject tract and on Balcones is being considered for rezoning to allow a national bank and 2 lane drive thru to be built.

While we supported the rezoning of the medical office currently being built, we publicly expressed a concern that our actions not be construed as supporting a precedent for further up-zoning along Balcones Drive and we are dismayed that it may have done so. Based on information with this case, including the applicant's representative, we are puzzled as to why GR is necessary given the proposed use.

We urge you to recommend a change in zoning to LO. If this cannot be accommodated, we ask at the very least that the allowance of one Restaurant (drive-in, fast food) be prohibited in the conditional overlay.

Thank you for your time in this matter.

Regards,  
Bill Bradley

President  
North West Austin Civic Association (NWACA)

5701 Trailridge Drive  
Austin, Texas, 78731  
September 2, 2005

**RECEIVED**

SEP 20 2005

Neighborhood Planning & Zoning

Ms Betty Baker, Chairperson  
and Members of the Zoning and Platting Commission  
C/O Jorge E. Rousselin, Senior Planner  
P.O. Box 1088  
Austin, TX. 78767

Re: Zoning case C14-05-0108; 5717 Balcones Drive

Dear Chairperson Baker and Members of the Zoning and Platting

I live within 300 feet of 5717 Balcones Drive, the site of proposed zoning change C14-05-0108 and am writing to oppose the proposed zoning change to GR.

The current zoning is SF-3 on nearly all of the site with a thin strip of GR-CO at the north end. The current use is a 2-story state cosmetology office building that meets both the use and site development requirements for LO zoning. The current structure is 28 feet tall, the building coverage is about 16 percent, and the total impervious cover is about 54 percent according to Lynn Ann Carley, Ambrust & Brown.<sup>1</sup> The proposed use of the site is medical and administrative offices for a group of ophthalmologists, with related sale of eyeglasses, contact lenses, etc.<sup>2</sup> This use is compatible with LO zoning, and according to Ms Carley, the applicant does not plan to change the building height, building coverage, or impervious cover beyond what would be allowed under LO zoning. According to Ms. Carley, the applicant intends to use about 50 percent of the building for administrative offices, 48 percent for medical offices; and 2 percent for selling eyeglasses, contact lenses, etc., which also is consistent with LO zoning.<sup>3</sup> The proposed use of the building for ophthalmology medical and administrative offices, with accessory sales of eyeglasses, contacts, etc. also is consistent with the LO uses and zoning on the west side of Balcones between 2222 and Allen Park.

In a meeting with representatives of the North West Austin Civic Association (NWACA) on July 21, 2005 and in her follow-up e-mail of August 8, 2005, Ms. Carley was under the mistaken impression that half of the site was already zoned for GR-CO. The notice that had been sent by the city to property owners within 300 feet also erroneously showed that about half the site was GR-CO. Therefore, it is very possible that the city staff also thought half of the site was zoned GR-CO, which may have influenced their decision to recommend GR-CO zoning on the entire site. If the staff had had known that the actual GR-CO portion of the site was a very thin strip at the north end, it is possible they would have recommended LO zoning because the existing use currently meets LO requirements, the proposed use is consistent with LO, and LO zoning and use would be compatible with the office zoning and use on the west side of Balcones between 2222 and Allen Park.

The thin strip of GR-CO on the site is a remnant from the adjacent shopping center site to the north. As shown in the restrictive covenant that applies to the GR-CO portion of the site, the zoning change in 1991 from LO to GR-CO for the shopping center was contingent upon state approval of a roadway to divert traffic from Balcones

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<sup>1</sup> E-mail dated 8/8/05 responding to questions raised by North West Austin Civic Association (NWACA) Executive Committee and other members in a meeting with her on 7/21/05.

<sup>2</sup> Based on a meeting between Lynn Ann Carley and NWACA Executive Committee and other NWACA members on 7/21/05 and a follow-up e-mail from Ms. Carley dated 8/8/05.

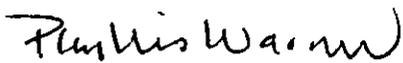
<sup>3</sup> E-mail of 8/8/05 from Lynn Ann Carley to participants in NWACA meeting of 7/21/05.

to the MoPac exit ramp. The restrictive covenant states that if the roadway could not be built, the GR-CO zoning would revert back to LO. Since 1991, the traffic has grown exponentially on Balcones, 2222, MoPac and the 2222 exit ramp. There is no access from the state cosmetology site (including the GR-CO remnant) onto the MoPac exit ramp, and even if there were an access, it would be onto a busy right turn-only lane that is close to 2222. The most intense use that was allowed in the GR-CO shopping center site was a fast food restaurant, but because of traffic impacts, the number of fast food restaurants was limited to one. A MacDonald's that generates a significant amount of traffic was built between Balcones and the exit ramp with access to both. By extending the GR-CO to the entire state office site, the city would be allowing another fast food restaurant on Balcones and other intense uses now allowed in GR and not excluded in the CO. The traffic at the intersections of Balcones and 2222 and MoPac and 2222 is of tremendous concern both to residents of Highland Hills and to the many thousands of Austinites who travel 2222 every day.

In conclusion, the current zoning on this site is SF-3 with a very thin strip of GR-CO at the north end. The current use of the cosmetology site is consistent with LO zoning, the proposed use by this applicant also is consistent with LO zoning, and LO zoning would be compatible with the office zoning and uses on the west side of Balcones from 2222 to Allen Park. I urge you to vote against the proposed zoning change to GR even with the conditional overlay because LO is the appropriate zoning for this site.

Thank you very much for your consideration of my comments and concerns.

Sincerely,



Phyllis Warner

P.S. I represented the North West Austin Civic Association in the negotiations with the developer over the zoning change from LO to GR-CO on the shopping center tract, and was involved when the site was changed from SF-3 to LO. I would be happy to answer questions about the history of these cases and about the impact of traffic on Balcones and Northland for residents of Highland Hills.

5701 Trailridge Drive  
Austin, Texas, 78731  
October 4, 2005

**RECEIVED**  
OCT 04 2005  
Neighborhood Planning & Zoning

Ms Betty Baker, Chairperson and Members of the Zoning and Platting Commission  
C/O Jorge E. Rousselin, Senior Planner  
P.O. Box 1088  
Austin, TX. 78767

Re: Zoning case C14-05-0108; 5717 Balcones Drive

Dear Chairperson Baker and Members of the Zoning and Platting Commission

This is a supplement to my letter of September 2, 2005 in opposition to the zoning change to GR at 5717 Balcones Drive (State Cosmetology office site). Since writing that letter, I have learned that the entire site is zoned SF-3, without even a sliver of GR-CO. It is hard to imagine that the mapping errors that showed 50 percent of the site as GR-CO and subsequently a sliver as GR-CO didn't influence the applicant to request GR and the city staff to recommend GR-CO. However, the logical zoning for this site is LO for the following reasons:

- The current use and site development as a state office is consistent with LO zoning.
- The proposed use and site development for ophthalmology offices with related sales (eyeglasses, etc) as an accessory use is consistent with LO zoning.
- The site is on Balcones and there is no access onto the MoPac exit ramp from the site. Balcones is not a major roadway (a guideline for GR zoning), and traffic is a problem.
- The entire west side of Balcones from Northland at least to Allen Park near Hart Lane, and part of the east side is zoned LO and used for offices.
- Because of traffic implications (especially the fast food restaurant), the GR-CO of the tract north of the cosmetology site has a restrictive covenant saying that its zoning would revert back to LO if the road giving it access to the MoPac exit ramp was not built. (The road was built, however, the state cosmetology site does not have an access onto that road.)
- The Chevron station south of the site has LR zoning except for a small area of GR approved for a 1-stall car wash, and direct access onto Northland.

I can understand that there would be reluctance to "down zone" if half of the cosmetology site already were zoned GR-CO, or even if a part were. But the entire site is SF-3 and the logical zoning is LO. I am concerned about the traffic impacts on Balcones, Northland, and their intersection of a future GR use on this site. Furthermore, I am very concerned about setting a precedent for more GR in the area, especially on the Highland Hills side of Northland Drive where there already is an application for a zoning change from NO to GR (C14-05-0149).

I hope that you will consider these comments and vote against the proposed zoning change.

Sincerely

Phyllis Warner

# ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300  
AUSTIN, TEXAS 78701-2744  
512-435-2300

FACSIMILE 512-435-2360

LYNN ANN CARLEY  
(512) 435-2378  
lcarley@abaustin.com

August 31, 2005

Jorge Rousselin  
City of Austin  
Watershed Protection and Development Review Department  
505 Barton Springs Road  
Austin, TX 78704

Re: 5717 Balcones Drive – Case Number C14-05-0108

Dear Jorge:

This firm represents and I am writing to you on behalf of SWD Partners, Ltd. SWD Partners, Ltd. owns the subject property for this zoning case. Attached is a copy of an amended zoning application for the 5717 Balcones Drive project. Since the original application was submitted, there have been several changes to the project. They are listed as follows:

1. Ownership in the property has changed since the original submission. As of August 11, 2005, SWD Partners, Ltd. owns the property. Therefore, the owner's name and deed information has been revised on the attached form. A copy of the deed has been included for your records.
2. We have determined that the restrictive covenants previously referred to in the application do not apply to the property.
3. The site may be utilized for retail purposes, as well as a medical office. Therefore, the proposed land use on the application has been revised to state "medical office/retail." The applicant understands that the proposed land uses must stay below the 2,000 trip per day threshold with this proposed zoning case.

Please feel free to contact me with any questions.

Sincerely,



Lynn Ann Carley  
Senior Land Development Consultant



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**Trip  
Generation  
Information**

ITS  
#720

State Bldg on Balcones Test  
 Summary of Trip Generation Calculation  
 For 18 Th.Gr.Sq.Ft. of Medical-Dental Office Building  
 May 16, 2005

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	36.13	10.18	1.00	650
7-9 AM Peak Hour Enter	1.96	0.00	1.00	35
7-9 AM Peak Hour Exit	0.52	0.00	1.00	9
7-9 AM Peak Hour Total	2.48	1.94	1.00	45
4-6 PM Peak Hour Enter	1.00	0.00	1.00	18
4-6 PM Peak Hour Exit	2.72	0.00	1.00	49
4-6 PM Peak Hour Total	3.72	2.50	1.00	67
Saturday 2-Way Volume	8.96	9.17	1.00	161
Saturday Peak Hour Enter	2.07	0.00	1.00	37
Saturday Peak Hour Exit	1.56	0.00	1.00	28
Saturday Peak Hour Total	3.63	1.93	1.00	65

Note: A zero indicates no data available.  
 Source: Institute of Transportation Engineers  
 Trip Generation, 7th Edition, 2003.

TRIP GENERATION BY MICROTRANS

ITE  
#730

State Bldg on Balcones Test  
Summary of Trip Generation Calculation  
For 18 Th.Gr.Sq.Ft. of Government Office Building  
May 16, 2005

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	68.93	0.00	1.00	1241
7-9 AM Peak Hour Enter	4.94	0.00	1.00	89
7-9 AM Peak Hour Exit	0.94	0.00	1.00	17
7-9 AM Peak Hour Total	5.88	0.00	1.00	106
4-6 PM Peak Hour Enter	0.38	0.00	1.00	7
4-6 PM Peak Hour Exit	0.83	0.00	1.00	15
4-6 PM Peak Hour Total	1.21	0.00	1.00	22
Saturday 2-Way Volume	0.00	0.00	1.00	0
Saturday Peak Hour Enter	0.00	0.00	1.00	0
Saturday Peak Hour Exit	0.00	0.00	1.00	0
Saturday Peak Hour Total	0.00	0.00	1.00	0

Note: A zero indicates no data available.  
Source: Institute of Transportation Engineers  
Trip Generation, 7th Edition, 2003.

TRIP GENERATION BY MICROTRANS



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**TIA  
Determination  
Form**

